

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 1:00-CR-183

Plaintiff,

Hon. Richard Alan Enslen

v.

LYTARIAN WEAVER,

Defendant.

ORDER

This matter is before the Court on Defendant Lytarian Weaver's Motion to Waive Interest. The Government has taken no position on the issue.

Defendant has requested that the Court modify his sentence and waive the interest on his fine while he is incarcerated. Defendant was sentenced on May 1, 2001, to 150 months imprisonment and a supervised release term of five years. Defendant was also ordered to pay a fine in the amount of \$3,500.00 and a special assessment in the amount of \$100.00. At the time of sentencing, this Court did not waive the interest on the fine but instead made the fine payable immediately.

After review, the Court finds it is without jurisdiction to waive the interest on Defendant's fine. Pursuant to Federal Rule of Criminal Procedure 35, the Court can correct a sentence within seven days of sentencing, or reduce the sentence upon a motion made by the Government within one year of the sentence. FED. R. CRIM. P. 35(a)-(b); *see also United States v. Vicol*, 460 F.3d 693, 694 (6th Cir. 2006) (holding "the phrase 'correct a sentence' as used in Rule 35 requires a district court to actually resentence a defendant within 7 days after the court first orally sentences that defendant.") As this motion has been made more than five years after sentencing, the Court finds it untimely and lacks authority to modify his sentence. Accordingly,

IT IS HEREBY ORDERED that Defendant Lytarian Weaver's Motion to Waive Interest (Dkt. No. 74) is **DENIED**.

DATED in Kalamazoo, MI:
May 21, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE